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**FACSIMILE TRANSMITTAL SHEET AND
CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8****TO: Examiner J. R. Hardee - United States Patent and Trademark Office**

Fax No. 703-872-9306

Phone No. 571-272-1318

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(Signature)

FROM: Brent M. Peebles, Esq.

Fax No. 513-627-8118

Phone No. 513-627-6773

Listed below are the item(s) being submitted with this Certificate of Transmission:**

- 1) Transmittal Cover Sheet (In dup.)
- 2) Response (3 pgs.)

Inventor(s): Woo et al.

S.N.: 10/722,996

Filed: November 26, 2003

Case: 7768MD

Number of Pages including this Page: 6

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Brent M. Peebles	38,576
Name of Attorney	Registration No.
Signature of Attorney	

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE
RESPONSE TO RESTRICTION REQUIREMENT

COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is an RESPONSE TO RESTRICTION REQUIREMENT for the patent application:

Application No. : 10/722,996
Applicant(s) : Woo et al.
Filed : November 26, 2003
Title : Improved Methods, Compositions, And Articles For Odor Control
TC/A.U. : 1751
Examiner : J. R. Hardee
Conf. No. : 9564
Docket No. : 7768MD
Customer No. : 27752

- ☒ No additional fees (claims fees or extension fees) are known to be required.
- ☐ The fee has been calculated as shown below:

	(Col. 1)		(Col. 2)	(Col. 3)	OTHER THAN A SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA*	RATE	FEE
TOTAL	*	MINUS	**	=	x \$18 =	\$
INDEP.	*	MINUS	***	=	x \$86 =	\$
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					+ \$290 =	\$
					TOTAL	\$

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

** If the highest number of total claims previously paid for is less than 20, write "20" in this space.

*** If the highest number of independent claims previously paid for is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment or the number of claims originally filed.

- ☐ The Commissioner is hereby petitioned under 37 CFR §1.136(a) to grant any extension of time needed for timely response to the Office Action dated in the above-identified application to preserve pendency of said application. The processing fee under 37 CFR §1.17 has been determined as follows: \$ for a -month extension of time.
- The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 16-2480. A duplicate copy of this sheet is attached.
 - ☒ Any patent application processing fees under 37 CFR §1.16.
 - ☒ Any patent application processing fees under 37 CFR §1.17.
- The Director is hereby authorized to make any additional copies of this sheet needed to accomplish the purposes provided for herein and to charge any fee for such copies to Deposit Account No. 16-2480.

Brent M. Peebles
Brent M. Peebles
Attorney or Agent for Applicant(s)
Registration No. 38,576
Tel. No. (513) 627-6773

Date: September 2, 2004
Customer No. 27752
(Transamd.doc - last revised 4/30/2004)

Transmitted to: Commissioner for Patents at 703-472-9306 on September 2, 2004	
Brent M. Peebles	38,576
Name of Attorney	Registration No.
Signature of Attorney	

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Date: September 2, 2004

Customer No. 27752

(Transamd.doc - last revised 4/30/2004)

Appl No. 10/722,996
Atty Docket No.
Response Dated September 2, 2004
Reply to Office Action of August 2, 2004

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Brent M. Peabody

Name of Attorney


Signature of Attorney

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Examiner : JOHN R. HARDEE
Conf. No. : 9564
Docket No. : 7768MD

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Examiner:

This is responsive to the August 2, 2004 Office Action in the above-entitled application, setting a one-month period for response. The date of the Office Action provides for a timely response up to and including September 2, 2004.

Remarks begin on page 2 of this paper.

Appl No. 10/722,996
Atty Docket No.
Response Dated September 2, 2004
Reply to Office Action of August 2, 2004

Response to Restriction Requirement of Claims 3-18 and 30-33

Claims 3-18 and 30-33 have been restricted to "a single ultimate composition." Applicants respectfully traverse this Restriction for three reasons. First, the Examiner has not clearly identified the species to be elected. Second, the Examiner has not provided reasons and/or examples to support the conclusion that there are patentably distinct species, as required by MPEP 803. Third, a *prima facie* case was not established that a serious burden will be placed on the Examiner if all of the species encompassed by independent claim 30 are examined. For these reasons, Applicants respectfully submit that the restriction to "a single ultimate composition" should be withdrawn.

As stated above, the Restriction does not clearly identify the species to be elected. The language "single ultimate composition" implies that every composition disclosed in Applicants' specification is a species. Species must be independent or distinct from one another. In other words, the species must be patentable over each other (see MPEP 802.01). If the Examiner is taking the position that every composition disclosed in the specification is patentable over every other composition, it should be clearly stated in the Restriction requirement. No such statement has been made. Therefore, Applicants do not understand how the Examiner has grouped the species. As a result, Applicants cannot make an informed election.

Secondly, the Examiner has not provided reasons and/or examples to support the conclusion that there are patentably distinct species. MPEP 803 states: "Examiners must provide reasons and/or examples to support conclusions, but need not cite documents to support the restriction requirement in most cases." The Restriction requirement has no reasons or examples to explain the restriction to "a single ultimate composition." Therefore, this restriction does not comply with the MPEP and should be withdrawn.


Finally, a *prima facie* case was not established that a serious burden will be placed on the Examiner if all of the species encompassed by independent claim 30 are examined. MPEP 803 states "For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP 808.02. The Restriction requirement provided no such explanation. All of the current claims were grouped into one classification (class 510, subclass unknown). As stated in MPEP 808.02 (discussing related inventions): "Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among related inventions." For these reasons, Applicants respectfully submit that the restriction to "a single ultimate composition" should be withdrawn.

Appl No. 10/722,996
Atty Docket No.
Response Dated September 2, 2004
Reply to Office Action of August 2, 2004

Election

Applicants hereby elect Example 1 with traverse.

Respectfully submitted,
Ricky Ah-Man Woo, et al.

By 
Brent M. Peebles
Attorney for Applicants
Registration No. 38,576
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September 2, 2004
Customer No. 27752